

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 6.04 of the Lincoln Municipal Code
2 relating to Animal Control Regulations Generally by amending Section 6.04.010 to add
3 definitions for "adequate shelter," "animal exhibit," "boarding," "exotic animal," "hybrid,"
4 "shade" and "wild animal" and to amend the definitions of "large animal" and "unusual
5 animal"; amending Section 6.04.150 to increase impoundment fees; adding a new Section
6 6.04.155 to make it unlawful to own animal hybrids; adding a new Section 6.04.165 to
7 provide restrictions relating to activities of pet shops; amending Section 6.04.310 relating to
8 cruelty to animals; adding a new Section 6.04.315 to provide a separate section relating to
9 animal neglect by amending provisions previously contained 6.04.310, Cruelty to Animals;
10 adding a new section numbered 6.04.317 to provide exceptions to the violations set forth in
11 Section 6.04.310; amending Section 6.04.350 regarding selling or giving away animals;
12 amending Section 6.04.440 to provide additional penalties for violations of Chapter 6.04 of
13 the Lincoln Municipal Code; and repealing Sections 6.04.010, 6.04.150, 6.04.310, 6.04.350,
14 and 6.04.440 of the Lincoln Municipal Code as hitherto existing.

15 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

16 Section 1. That Section 6.04.010 of the Lincoln Municipal Code be amended
17 to read as follows:

18 **6.04.010 Definitions.**

19 For the purpose of this title, the following words shall have the following meanings:

1 **Adequate shelter** shall mean a physical structure available for use by an animal so that
2 when factors related to the age, size, physical condition, medical condition, species, and
3 breed disposition are considered, the animal's well-being is not endangered by weather or
4 environmental conditions.

5 **Animal** shall mean any vertebrate member of the animal kingdom excluding man.

6 **Animal exhibit** shall mean an animal act or performance where such animal is trained
7 to perform some behavior or action or is part of a circus, carnival, show, performance,
8 exhibition or animal ride.

9 **Board of Health** shall mean the Lincoln-Lancaster County Board of Health.

10 **Boarding** shall mean caring for, feeding, watering, or sheltering a pet animal belonging
11 to another by any person or business for pay, trade, barter, commission, or remuneration of
12 any sort.

13 **Department** shall mean the Lincoln-Lancaster County Health Department.

14 **Director** shall mean the Director of the Lincoln-Lancaster County Health Department
15 or such Director's ~~duty~~ authorized representative.

16 **Domesticated** shall mean a tame animal that is subject to the dominion and control of
17 an owner and accustomed to living in or near human habitation without requiring extraordi-
18 nary restraint or unreasonably disturbing such human habitation.

19 **Dwelling** shall mean any building or portion thereof which is designed and used for
20 residential purposes. An attached garage shall be deemed to be part of a dwelling.

1 **Exotic animal** shall mean any animal that is native to a foreign country or of foreign
2 origin or character, is not native to the United States or was introduced from abroad except
3 pet animals, large animals, or fowl. This term specifically includes animals such as, but not
4 limited to, elephants, camels, antelope, anteaters, kangaroo and water buffalo.

5 **Fowl** shall mean chickens, ducks, geese, turkeys, pigeons, pheasants, quail, partridge,
6 guineas, or other domesticated or wild fowl.

7 **Groom shop** shall mean any commercial retail establishment or business or part thereof
8 where cleaning, shampooing, caring, and grooming are provided for animals except the term
9 shall not include livestock auctions, veterinarians, boarding kennels, or animal shelters.

10 **Hobby breeder** shall mean any person who breeds and raises pet animals at his or her
11 place of residence; provided that (1) such breeding activity is incidental to keeping pet animals
12 for personal enjoyment, and (2) the premises are not a dog or cat kennel regulated by the
13 Lincoln Municipal Code. At least one parent of the pet animal must be kept upon the
14 residence or premises.

15 **Hybrid** shall mean any animal which is (1) the product of the breeding of a
16 domesticated animal with a non-domesticated animal including, but not limited to, wolf/dog
17 hybrids, or (2) the product of the breeding of a non-domesticated animal with an animal of a
18 different species, variety, or breed.

19 **Keep or harbor** shall mean to have charge, custody, or control of an animal or fowl,
20 or permitting the same to habitually remain or be lodged or fed within the house, store, yard,
21 enclosure, or place of the owner or occupant of the premises.

1 **Large animal** shall mean cattle, horses, mules, sheep, goats, ~~llamas, beasts of burden,~~
2 or any other domesticated ~~or wild~~ animal which is normally and historically kept and raised
3 on farms in the United States and used or intended for use as food, fiber, or farm work
4 weighing more than twenty pounds except pet animals, unusual animals, or fowl.

5 **Own** shall mean to own, keep, harbor, or have charge, custody, or control of an animal
6 or fowl.

7 **Owner** shall mean any person, firm, organization, association, or corporation owning,
8 possessing, keeping, harboring, or having charge, custody or control of any animal or fowl.

9 **Pet animal** shall mean dogs, cats, birds, guinea pigs, hamsters, mice, snakes, iguana,
10 and turtles. Pet animal shall also include any domesticated animal that a person owns or that
11 is sold or offered for sale generally for the purpose of being kept indoors as household pets,
12 except unusual animals.

13 **Pet animal dealership** shall mean places or premises where pet animals are kept for
14 wholesale or retail sale, including breeding facilities, except hobby breeders.

15 **Pet shop** shall mean any business establishment or premises or part thereof maintained
16 for the purpose of a pet animal dealership, but shall not include hobby breeder, groom shop,
17 veterinarians, boarding kennels, and animal shelters.

18 **Premises** shall include any building, lot, yard, or portion thereof, facilities and
19 appurtenances thereto, grounds, area, or place used as or held out for use as a pet shop.

20 **Retail sale** shall mean the business of selling pet animals directly to consumers or the
21 public.

1 **Run at large** shall include any animal that is not under the actual control of its owner.

2 An animal shall not be considered under the actual control of its owner unless on a leash,
3 cord, or chain which is securely fastened or picketed in a manner sufficient to keep the animal
4 on the premises where picketed, or on a leash, cord, or chain of six feet or less in length physi-
5 cally held by the owner or confined within a receptacle, enclosed vehicle, fenced enclosure
6 or shelter or within the real property limits of the owner and in the owner's presence and
7 under direct and effective voice control.

8 **Shade** shall mean protection from the direct rays of the sun.

9 **Small animal** shall mean any animal, including rabbits, weighing twenty pounds or
10 less, except pet animals, unusual animals or fowl.

11 **Unusual animal** shall mean any exotic, wild, poisonous, or potentially dangerous
12 animal not normally considered domesticated and shall include animals prohibited by the City
13 of Lincoln, State of Nebraska, or federal requirements, and also:

14 (1) Class mammalia; order carnivora, family felidae (such as lions, tigers,
15 jaguars, leopards, and cougars) and hybrids of the same except commonly accepted
16 domesticated cats and hybrids involving same; family canidae (such as wolves, coyotes, and
17 fox) and hybrids of the same except domesticated dogs ~~and hybrids involving same~~; family
18 mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers) except
19 ferrets; family procyonidae (such as raccoon); family ursidae (such as bears); order primata
20 (such as monkeys and chimpanzees); and order chiroptera (such as bats).

(2) Class reptilia; (i) all poisonous or venomous snakes, lizards, amphibians and other reptiles/ and shall include but not be limited to: cobras and their allies (elapidae, hydrophidae); vipers and their allies (crotalidae, viperidae); boonslang and kirtland's tree snake (clonophis); and gila monster (helodermatidae); (ii) order loricata (such as alligators, caymans, and crocodiles); (iii) green anaconda (eunectes murinus), Indian python (molurus molurus), reticulated python (python reticulatus), and African rock python (python sebae) .

Wholesale shall mean the business of buying for resale or selling pet animals to persons other than retail sales; or contracting in any manner for the sale of pet animals as a broker, commission merchant, or other persons who take possession of such pet animals during the course of such business.

Wild animal shall mean any animal within the boundaries of the United States which is now or historically has been found in the wild, or is in the wild state wherein it is living in its original, natural condition and is not domesticated.

Section 2. That Section 6.04.150 of the Lincoln Municipal Code be amended to read as follows:

6.04.150 Shelter Fee; Release from Shelter.

Unless otherwise ordered by a court of competent jurisdiction, Any animal held or impounded in the animal shelter because of being found running at large pursuant to the provisions of this title shall be released to the owner thereof by the Director upon presentation of the following:

- (a) Proof of ownership of such animal,

1 (b) Payment, or satisfactory arrangements for payment, of the daily boarding cost
2 plus the impoundment fee as set out below:

3 First ~~violation~~ impoundment per animal \$~~15.00~~ \$20.00;

4 Second ~~violation~~ impoundment per animal \$~~25.00~~ \$30.00;

5 Third ~~violation~~ impoundment per animal \$~~30.00~~ \$35.00;

6 Fourth and all ensuing ~~violations~~ impoundments per animal \$~~40.00~~ \$45.00;

7 (c) Proof that the animal is properly licensed and vaccinated against rabies.

8 Any animal ~~held or impounded in the animal shelter because of a violation of any~~
9 ~~provision of this chapter, except running at large, shall be released to the owner thereof by the~~
10 ~~Director upon presentation of proof of ownership of such animal~~ which has remained in the
11 shelter seventy-two hours without being claimed may be destroyed and disposed of in a
12 humane manner, except as otherwise provided by law. The owner of such animal shall
13 remain liable for payment of the daily boarding cost plus the impoundment fee as set out
14 above.

15 Payment of the daily boarding cost and impoundment fee shall not relieve the owner
16 from the responsibility ~~for~~ of any or all penalties which may be imposed for a violation of any
17 of the provisions of this chapter.

18 Section 3. That Chapter 6.04 of the Lincoln Municipal Code be amended by
19 adding a new section numbered 6.04.155 to read as follows:

1 **6.04.155 Hybrid; Unlawful.**

2 It shall be unlawful to own an animal hybrid; except a person who owns an otherwise
3 lawful animal hybrid prior to the enactment of this ordinance shall be entitled to maintain
4 ownership of said hybrid until such time as the hybrid dies, is given away, sold, or otherwise
5 transferred to the ownership of another, or for one year (whichever is shorter), for such time
6 as the following conditions are met:

7 (a) The hybrid shall be cared for in a manner consistent with the law;

8 (b) The hybrid is kept in a completely fenced enclosure that is adequate to prevent
9 the escape of the animal hybrid;

10 (c) The animal hybrid is vaccinated against rabies annually and the owner provides
11 proof of same; and

12 (d) A hybrid of the family canidae shall count as a dog and a hybrid of the family
13 felidae shall count as a cat for purposes of determining the number of dogs or cats owned,
14 kept, or harbored on a premises under Chapters 6.08 and 6.12 of this title.

15 Section 4. That Chapter 6.04 of the Lincoln Municipal Code be amended by
16 adding a new section numbered 6.04.165 to read as follows:

17 **6.04.165 Pet Shop; Restrictions.**

18 (a) It shall be unlawful to operate a mobile pet shop or conduct a business of
19 obtaining pet animals for resale, adoption, or selling from any vehicle parked or operated on
20 any city street.

1 (b) It shall be unlawful for the owner, proprietor, employee, or volunteer of any pet
2 shop to knowingly sell or offer for sale a sick or ill pet animal or misrepresent the breed or sex
3 of a pet animal to any buyer or consumer.

4 (c) It shall be unlawful to board any dog or cat overnight at any pet shop, groom
5 shop, or obedience training business, except that licensed veterinarians, animal shelters, and
6 humane societies are excluded from the requirements of this subsection.

7 Section 5. That Section 6.04.310 of the Lincoln Municipal Code be amended
8 to read as follows:

9 **6.04.310 Cruelty to Animals.**

10 Cruelty to animals shall be prohibited within the Lincoln city limits.

11 (a) Physical Abuse. It shall be unlawful for any person to willfully or maliciously
12 kill, maim, disfigure, torture, beat ~~with a stick, chain, club, or other object,~~ mutilate, burn,
13 ~~or scald with any substance,~~ or otherwise cruelly set upon any animal, ~~except that reasonable~~
14 ~~force may be employed to drive off vicious or trespassing animals.~~

15 (b) Physically Mistreat. It shall be unlawful for any person to knowingly,
16 intentionally, or recklessly cause or allow any animal to endure unreasonable or unjustifiable
17 pain, suffering, or injury.

18 (c) It shall be unlawful for any person to use any live animal including fish and fowl
19 as or for a target or in any cruel or unusual manner.

20 ~~Care and maintenance. It shall be unlawful for any person keeping or harboring any~~
21 ~~animal to fail, refuse, or neglect to provide such animal with proper food, drink, shade,~~
22 ~~shelter, or veterinary care as may be necessary for diseased or injured animals. Any animal~~

1 ~~habitually kept outside or repeatedly left unattended outside when no adult persons are~~
2 ~~present on the property shall be provided with a structurally sound, moisture-proof and wind-~~
3 ~~proof shelter large enough to accommodate and keep the animal reasonably clean, dry, and~~
4 ~~comfortable. Proper food, drink, shade, shelter and care shall require:~~

5 ~~————— (1) — That each animal shall at suitable intervals and at least once every~~
6 ~~twenty-four hours, receive a quantity of wholesome foodstuff suitable for the species' physical~~
7 ~~condition and age, sufficient to maintain an adequate level of nutrition for the animal;~~

8 ~~————— (2) — That each animal shall at suitable intervals and at least once every~~
9 ~~twenty-four hours, receive an adequate supply of clean, fresh, potable water for the species'~~
10 ~~physical condition and age and such water shall be provided either free-flowing or in a~~
11 ~~receptacle. If water pans or dishes are used, such pans or dishes shall have weighted bottoms~~
12 ~~or be mounted or secured in a manner that prevents tipping;~~

13 ~~————— (3) — That each animal shall have convenient access to shelter throughout the~~
14 ~~year. Any artificial shelter shall be structurally sound and maintained in good repair to protect~~
15 ~~the animal from injury and from the elements, and shall be of sufficient size to permit the~~
16 ~~animal to enter, stand, turn around and lie down in a natural manner. Any shelter which does~~
17 ~~not protect the animal from temperature extremes or precipitation, or which does not provide~~
18 ~~adequate ventilation or drainage, shall not comply with this section. The shelter and any other~~
19 ~~spaces accessible to the animal and all bedding for the animal shall be maintained in a manner~~
20 ~~which minimizes the risk of the animal contracting disease, being injured or becoming~~
21 ~~infested with parasites;~~

22 ~~————— (4) — That each animal shall receive care and medical treatment for debilitating~~
23 ~~injuries, parasites and disease, sufficient to maintain the animal in good health and to~~
24 ~~minimize suffering;~~

25 ~~————— (5) — That the living area for each animal being kept confined or restrained~~
26 ~~shall have adequate drainage such that the animal shall be free to walk or lie down without~~
27 ~~coming in contact with standing water.~~

28 ~~————— (6) — That if any animal is restrained by a chain, leash, wire cable or similar~~
29 ~~restraint, such restraint shall be designed and placed to prevent choking or strangulation or~~
30 ~~entanglement with other objects. Such restraint shall not be less than ten feet in length.~~

31 ~~————— (7) — That if any animal is kept in an enclosure, the enclosure shall be con-~~
32 ~~structed of material, and in a manner to minimize the risk of injury to the animal, and shall~~

encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

<u>Size of dog</u>	<u>Pen size (Square Feet)</u>
Extra large (over 26 inches at withers or over 75 lbs.)	48
Large (over 20 inches and up to 26 inches at withers or not over 75 lbs.)	40
Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.)	32
Small (12 inches or less at withers or not over 20 lbs.)	24

An additional sixteen square feet shall be required for each dog sharing the pen with another. The minimum pen size includes a shelter.

(d) Leaving animals in unattended vehicle. It shall be unlawful for any person to place or confine or allow such animal to be confined in such a manner that it must remain in a motor vehicle or trailer under such conditions or for such periods of time as may endanger the health or well-being of the animal due to heat, lack of food or water, or any circumstances which might cause suffering, disability, or death.

(e) Abandonment of animals. It shall be unlawful for any person to abandon or dump any animal within the City of Lincoln. Abandonment shall mean leaving an animal for a period in excess of twenty-four hours without appropriate provisions having been made for the feeding, watering, and care of such animal. If an animal is restrained or confined without food, water, or proper care, the Director may enter upon any property where the animal is restrained or confined and supply it with the necessary food, water and care so long as it there remains.

(f) Authority to remove and impound. If the Director reasonably believes that a violation of this section will continue, the Director is hereby authorized and empowered to seek a warrant from the appropriate court to enable the Director to enter private property in order to inspect, care for, or impound animals which show signs of animal neglect or abuse.

(g) Owner's cost. Any person or persons violating this section shall bear full cost and expenses incurred by the city in the care, medical treatment, impoundment cost, and disposal of said animals, including removal from a vehicle.

(h) This section shall not apply to animals impounded or confined prior to slaughter.

1 ~~_____ (i) _____ Whenever a person has been issued a citation under this section, and the animal~~
2 ~~has been seized by the Director pursuant to a warrant issued by the court, the owner shall not~~
3 ~~be allowed to redeem such animal until the citation has been resolved. If the owner is found~~
4 ~~guilty of violating this section, the court may award ownership of the animal to the Director~~
5 ~~who shall impound and dispose of such animal according to Lincoln Municipal Code Section~~
6 ~~6.04.130.~~

7 Section 6. That Chapter 6.04 of the Lincoln Municipal Code be amended by
8 adding a new section numbered 6.04.315 to read as follows:

9 **6.04.315 Animal Neglect.**

10 (a) Care and maintenance. It shall be unlawful for any person owning, keeping or
11 harboring any animal to fail, refuse, or neglect to provide such animal with adequate food,
12 water, shade, shelter, living environment, or veterinary care as may be necessary for diseased
13 or injured animals. Any animal habitually kept outside or repeatedly left unattended outside
14 shall be provided with a structurally sound, moisture-proof and windproof shelter large enough
15 to accommodate and keep the animal reasonably clean, dry, and comfortable. Adequate food,
16 water, shade, shelter, living environment and care shall mean:

17 (1) That each animal shall at suitable intervals, and at least once every
18 twenty-four hours receive a quantity of wholesome foodstuff suitable for the species' physical
19 condition and age, sufficient to maintain an adequate level of nutrition for the animal;

20 (2) That each animal shall at all times have access to an adequate supply of
21 clean, fresh potable water for the species' physical condition and age, and such water shall
22 be provided either free-flowing or in a receptacle. Snow or ice is not an acceptable water

1 source. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or
2 be mounted or secured in a manner that prevents tipping;

3 (3) That each animal shall have convenient access to adequate shelter
4 throughout the year. Any artificial shelter shall be structurally sound and maintained in good
5 repair to protect the animal from injury and from the elements, and shall be of sufficient size
6 to permit the animal to enter, stand, turn around and lie down in a natural manner. Any
7 shelter which does not protect the animal from temperature extremes or precipitation, or
8 which does not provide adequate ventilation or drainage, does not comply with this section.
9 The shelter and any other spaces accessible to the animal and all bedding for the animal shall
10 be maintained in a manner which minimizes the risk of the animal contracting disease, being
11 injured or becoming infested with parasites.

12 (4) That each animal shall receive care and medical treatment for debilitating
13 injuries, parasites, and disease, sufficient to maintain the animal in good health and to
14 minimize suffering;

15 (5) That any animal being confined in any sort of shelter or restrained in any
16 way shall be provided space to walk and lie down in and said space shall have adequate
17 drainage such that the animal shall be free to walk and lie down without coming into contact
18 with standing water;

19 (6) That if any animal is restrained by a chain, leash, wire cable or similar
20 restraint, such restraint shall be designed and placed to prevent choking or strangulation or
21 entanglement with other objects. Any tethering device must be attached to a properly fitting

collar or harness. Choke chain collars, prong or pinch collars, or any collar devised for training so that it chokes or pinches the animal when pulled is prohibited for the purposes of tethering an animal. The tethering device must be at least ten feet in length but shall not allow the animal to leave the property on which it is tethered.

(7) That if any animal is kept in an enclosure, the enclosure shall be constructed in a manner and of material designed to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

<u>Size of Dog</u>	<u>Enclosure Size (Sq. Ft.)</u>
<u>Extra Large (over 26 in. at withers or over 75 lbs.)</u>	<u>48</u>
<u>Large (over 20 in. and up to 26 in. at withers/not over 75 lbs)</u>	<u>40</u>
<u>Medium (over 12 in. and up to 20 in. at withers/not over 50 lbs.)</u>	<u>32</u>
<u>Small (12 in. or less at the withers/not over 20 lbs.)</u>	<u>24</u>

An additional sixteen (16) square feet shall be required for each dog sharing a pen with another.

(b) Leaving animals in unattended vehicle. It shall be unlawful for any person to place or confine an animal or allow an animal to be confined, in a motor vehicle or trailer in such a manner or under such conditions or for such periods of time as to endanger the health or well-being of the animal, including, but not limited to, extremes of heat or cold, lack of food or water, or any other circumstances which may cause suffering, disability, injury, or death.

(c) Abandonment of animals. It shall be unlawful for any person to abandon any animal within the City of Lincoln. Abandonment shall mean leaving an animal for a period

1 of time in excess of twenty-four hours without appropriate provisions having been made for
2 the feedings, watering, and care of such animal, or leaving an animal unattended with the
3 intent to discontinue care and maintenance of the animal.

4 (d) Authority to remove and impound. If the Director reasonably believes that a
5 violation of this section exists, the Director is hereby authorized and empowered to seek a
6 warrant from the appropriate court to enable the Director to enter private property in order to
7 inspect, care for, or impound animals which show signs of animal neglect or abuse.

8 (e) Owner's cost. Any person or persons violating this section shall bear full cost
9 and expenses incurred by the City in the recovery, care, medical treatment, impoundment
10 cost, and disposal of said animals, including removal from a motor vehicle or trailer.

11 (f) Whenever an animal has been seized pursuant to a warrant issued by the court,
12 the release or disposition of the animal shall be within the sound discretion of the court. The
13 court may, upon conviction of the owner for a violation of this title, order that the animal may
14 be destroyed in a humane fashion, and any such impoundment or disposal costs incurred by
15 the City shall be taxable to the person so convicted.

16 Section 7. That Chapter 6.04 of the Lincoln Municipal Code be amended by
17 adding a new section numbered 6.04.317 to read as follows:

1 **6.04.317 Cruelty; Exemptions.**

2 Section 6.04.310 shall not apply in the following circumstances, except that no animal
3 shall be killed in an inhumane fashion or tortured in any event.

4 (1) Care or treatment of an animal by a veterinarian licensed under the Nebraska
5 Veterinary Practice Act;

6 (2) Commonly accepted care or treatment of a police animal by a law enforcement
7 officer in the normal course of his or her duties;

8 (3) Research activity carried on by any research facility currently meeting the
9 standards of the federal Animal Welfare Act, 7 U.S.C. 2131, et seq.;

10 (4) Commonly accepted practices of hunting, fishing, or trapping;

11 (5) Commonly accepted practices occurring in conjunction with rodeos, animal
12 racing, or pulling contests;

13 (6) Humane killing of an animal by the owner or by his or her agent or a
14 veterinarian upon the owner's request;

15 (7) Commonly accepted practices of animal husbandry with respect to farm
16 animals, including their transport from one location to another and nonnegligent actions taken
17 by personnel or agents of the Nebraska Department of Agriculture or the United States
18 Department of Agriculture in the performance of duties prescribed by law;

19 (8) Use of reasonable force against an animal, other than a police animal, which
20 is working, including killing, capture, or restraint, if the animal is outside the owned or rented

1 property of its owner or custodian and is injuring or posing an immediate threat to any person
2 or other animal;

3 (9) Killing of house or garden pests in one's own house or garden. For purposes
4 of this section, "house or garden pests" shall include moles, voles, mice, rats, bats, gophers,
5 ground squirrels, and the like, but shall not include any animal which is assigned a hunting
6 season by the State of Nebraska or which is subject to any other special protection such as
7 being designated a threatened or endangered species;

8 (10) Commonly followed practices occurring in conjunction with the slaughter of
9 animals for food or byproducts; and

10 (11) Commonly accepted animal training practices.

11 Section 8. That Section 6.04.350 of the Lincoln Municipal Code be amended
12 to read as follows:

13 **6.04.350 Selling or Giving Away ~~Dyed~~ Animals.**

14 (a) No live animal or fowl that has been dyed or otherwise colored artificially may
15 be sold or offered for sale, raffled, offered or promoted as incentive to participate in any game,
16 or given as a prize, premium, or advertising device, or displayed in any store, shop, carnival,
17 or other public place.

18 (b) It shall be unlawful for any person to sell, or display with the intent to sell, or
19 offer for sale or barter, give away, or otherwise dispose of or exchange any animal in or upon
20 any street, sidewalk, public building, public park, or other public place. Nothing in this

1 section shall be construed to prohibit the sale, display, or adoption of animals and fowl by
2 humane societies and licensed facilities such as veterinary clinics and pet shops.

3 Section 9. That Section 6.04.440 of the Lincoln Municipal Code be amended
4 to read as follows:

5 **6.04.440 Penalty for Violations.**

6 Any person who shall violate any of the provisions of Section 6.04.310 shall be
7 deemed guilty of a misdemeanor and upon conviction thereof shall be punished by
8 imprisonment in the county jail for a period not to exceed six months or be fined in a sum not
9 to exceed \$500.00 and not less than \$250.00 recoverable with costs, or by both such fine and
10 imprisonment.

11 Any person upon whom a duty is placed by the provisions of this chapter who shall
12 fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this
13 chapter for which a penalty is not specifically provided, shall be deemed guilty of a
14 misdemeanor and upon conviction thereof shall be punished by imprisonment in the county
15 jail for a period not to exceed six months or be fined in a sum not to exceed \$500.00 and not
16 less than ~~\$25.00~~ \$35.00 for the first offense, and not less than \$50.00 for a second offense,
17 and not less than \$100.00 for the third offense and each offense thereafter, recoverable with
18 costs, or by both such fine and imprisonment.

19 In addition to the penalties for all violations herein provided, the court may order such
20 person to reimburse the city, and/or a public or private agency for expenses incurred in the

1 care, medical treatment, impoundment, and disposal of any animal involved in or connected
2 with the incident for which the complaint was filed.

3 A court, upon finding a person guilty of any violation of this title, may, in addition to
4 finer, imprisonment, costs, or otherwise, order such convicted person to make restitution to
5 any person for damage or injury to such person or such person's property.

6 Each day that a violation of any section in this chapter continues shall constitute a
7 separate and distinct offense and shall be punishable as such. The penalties herein provided
8 shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter
9 provided.

10 Section 10. That Sections 6.04.010, 6.04.150, 6.04.310, 6.04.350, and
11 6.04.440 of the Lincoln Municipal Code as hitherto existing be and the same are hereby
12 repealed.

13 Section 11. That this ordinance shall take effect and be in force from and after
14 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Approved this ___ day of _____, 2001:

Mayor